

# TOBACCO RETAIL PRICE MANIPULATION

## Highlights from the California Tobacco Control Program's Policy Strategy Summit

### Background

In May 2008, CTCPP convened a Tobacco Retail Price Manipulation Policy Strategy Summit to advance our understanding of how **the industry manipulates cigarette prices to hook more smokers** and to explore feasible state policy responses.

Summit participants, including experts in law, public health, economics, marketing and business, brainstormed potential policy strategies to counteract the tobacco industry's price-based marketing strategies. Highlights are included below, and the full proceedings are available on the CTCPP website at: [www.cdph.ca.gov/programs/tobacco/Documents/CTCPPPriceStrategySummit2009.pdf](http://www.cdph.ca.gov/programs/tobacco/Documents/CTCPPPriceStrategySummit2009.pdf) or in hard copy from the CTCPP Knowledge Management Unit (916-449-5500).

**This Regional Forum, which focuses on strategies to counteract tobacco price manipulation, is the next step in that conversation.**

### The Facts

#### What is tobacco price manipulation?

Tobacco price manipulation, or price-related marketing, refers to the tobacco industry's efforts to recruit and retain smokers by artificially lowering the price of cigarettes. People who are trying to quit, and price-sensitive groups like youth and low-income communities, are often targeted by these pricing schemes.

#### Wasn't tobacco marketing restricted by the 1998 Master Settlement Agreement?

Although the 1998 Master Settlement Agreement (MSA) limited many types of cigarette marketing, following the MSA cigarette manufacturers substantially increased their marketing and promotional spending in other venues unconstrained by the legal settlement. Because stores were one of the few marketing venues not restricted by the MSA, prominent shelf space, point-of-sale displays and price promotions in retail outlets became a primary focus for the industry.

As a result, rather than decreasing in the wake of the MSA, tobacco company marketing expenditures rose.<sup>1</sup> In fact, per-pack promotional spending has more than doubled since the MSA, despite declines in the last few years. Cigarette marketing expenditures are increasingly dominated by spending on price-reducing promotions.<sup>1</sup>

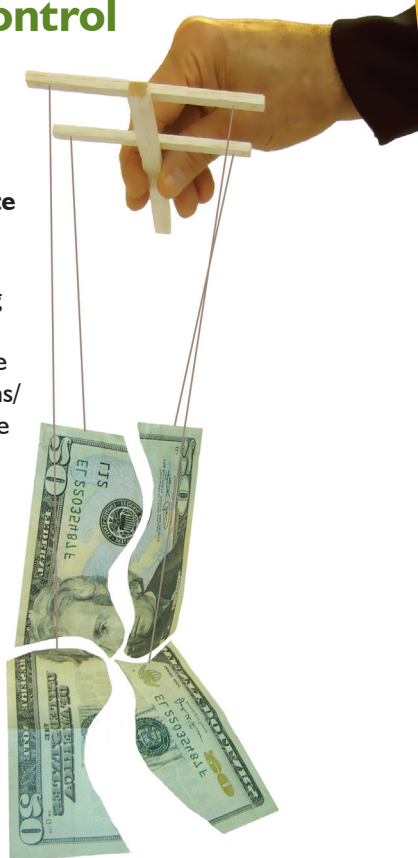
#### How does tobacco price manipulation work?

California's cigarette tax is \$0.87 per pack and is paid by cigarette distributors through the purchase of tax stamps. This cost is typically passed through to consumers by cigarette retailers. In price-related marketing, manufacturers provide financial incentives to retailers that offset the cost of the cigarette tax; in exchange, retailers agree to discount or promote the manufacturer's cigarettes in-store.

This type of agreement is **designed to hook smokers for the long-term by offering short-term promotions.**

While the manufacturer's degree of in-store control can vary, in general, retailers are obligated to:

- Follow plan-o-grams depicting the placement of displays and fixtures;
- Offer and advertise packs for sale;



- Allocate specific shelf space; and
- Agree to inspections, inventory checks and audits by the tobacco company.

In return, the retailer receives an allowance, such as 50 cents per carton if the store sells 1,000 cartons per month.<sup>ii</sup>

### How can a manufacturer affect retail sales prices?

Price promotions are designed to reduce the selling price for each promoted brand.

- Buy-downs, or retail price promotions, are price reductions offered for a defined period of time during which the retailer agrees to reduce the selling price of specific brands by at least the specified amount, in exchange for an allowance of an equal amount from the manufacturer.
- Promotional allowances are programs in which retailers are given a sum at least as great as the amount to be subtracted from their regular price.

To participate in these price promotions, the retailer normally must maintain at least one interior point-of-sale sign to advertise the promoted price and at least two industry-sponsored “We Card” signs.

### What are the real costs to the state?

In addition to the health costs of smoking, California loses sales tax revenue on some types of tobacco promotions. While buy-downs and promotional allowances are usually taxable, sales tax does not apply to money that is not associated with an actual sale, such as display or shelving allowances, merchandising or signage allowances, purchase discounts and off-invoice promotions.<sup>iv</sup>

### Why is counteracting tobacco price manipulation important?

Increasing the price of cigarettes is the best way to:

- Help smokers to quit;
- Prevent relapse by ex-smokers;
- Reduce the number of cigarettes consumed by continuing smokers; and
- Discourage people from starting to smoke.

The impact is greatest on those who are most price-sensitive, such as low-income populations and youth.<sup>i</sup>

### What can be done to counteract price manipulation by the tobacco industry?

Participants in the 2008 summit examined a number of policy strategies to address tobacco industry price manipulation. Strategies having the greatest potential public health benefit and being the most feasible to implement included:

- Minimum Price or “Fair Trade” Law: Establishes a minimum price of tobacco products to reduce consumption.
- Ban or Constrain Buy-downs and Tobacco Industry Promotions: Limits industry manipulation of tobacco prices.
- Fairness Doctrine for Buy-downs and Price Promotions: Mandates placement of counter-advertising for each buy-down or promotion offered.
- Performance-Based Regulation: Provides look-backs for reductions in smoking rates.
- Sunshine or Disclosure Law: Mandates that manufacturers publicly disclose payments to retailers.

For more information about tobacco price regulation and price manipulation, please visit the CTCP Regional Forum website: <http://www.cdph.ca.gov/programs/tobacco/Pages/RegionalForums.aspx>

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